

1 HONORABLE RONALD B. LEIGHTON
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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

10 UNITED STATES OF AMERICA,

v.
11 Plaintiff,

12 JON MAJOR A/K/A JOZUA HFVAK,

Defendant.

CASE NO. CR17-96RSM

ORDER AFFIRMING DENIAL OF
MOTION TO DISQUALIFY

14 THIS MATTER is before the Court on review of Chief Judge Ricardo Martinez's Order
15 [Dkt. # 86], declining to Disqualify himself in response to Defendant Hfvak's Motion [Dkt. #
16 84]. That Order was referred to this Court as the most senior non-Chief Judge under 28 U.S.C.
17 §144 and LCR 3(e).

18 Hfvak's Motion is supported by an affidavit of bias. [Dkt. # 85]. Hfvak claims that Judge
19 Martinez is biased based on statements he made at two hearings in this case, related to Hfvak's
20 attorney's withdrawal and replacement. Specifically, Hfvak claims that Judge Martinez said he
21 thought Hfvak was "manipulating" the judicial process, and by not letting him speak. Hfvak also
22 claims that he (Hfvak) is mentally ill, but that Judge Martinez is forcing him to represent himself.

1 A federal judge should recuse himself if “a reasonable person with knowledge of all the
2 facts would conclude that the judge’s impartiality might reasonably be questioned.” 28 U.S.C.
3 § 144; *see also* 28 U.S.C. § 455; *Yagman v. Republic Insurance*, 987 F.2d 622, 626 (9th Cir.
4 1993). This objective inquiry is concerned with whether there is the appearance of bias, not
5 whether there is bias in fact. *See Preston v. United States*, 923 F.2d 731, 734 (9th Cir. 1992); *see*
6 *also United States v. Conforte*, 624 F.2d 869, 881 (9th Cir. 1980).). In the absence of specific
7 allegations of personal bias, prejudice, or interest, neither prior adverse rulings of a judge nor his
8 participation in a related or prior proceeding is sufficient” to establish bias. *Davis v. Fendler*, 650
9 F.2d 1154, 1163 (9th Cir. 1981). Judicial rulings alone “almost never” constitute a valid basis for
10 a bias or partiality motion. *Liteky v. United States*, 510 U.S. 540, 555 (1994).

11 Major does not claim or demonstrate that a reasonable viewer would question Judge
12 Martinez's ability to remain impartial in this matter. Instead, he is complaining about the Judge's
13 judicial rulings and the bases for them. Such rulings are "almost never" a valid basis for recusal,
14 and they are not in this case.

15 Major's Motion for Recusal [Dkt. # 84] is DENIED, and Judge Martinez's Order
16 Declining to Recuse [Dkt. # 86] is AFFIRMED.

17 IT IS SO ORDERED.

18 || Dated this 10th day of January, 2018.

Ronald B. Leighton
RONALD B. LEIGHTON
United States District Judge